

## Judges' motion presses demand for third courtroom

By Steven Friederich

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The Grays Harbor Superior Court judges are seeking a judicial order requiring the county to immediately build them a third courtroom.

The issue of a third courtroom has been debated for decades and is the third leg of the lawsuit the judges filed against the county in Thurston County last December. Most of the lawsuit's attention has been focused on the other issues — judicial funding to run the county's court system and courthouse security. Just last month, the county commissioners approved \$225,000 for the Juvenile Court and juvenile detention center, and \$148,020 for the Superior Court budget. The funding was an addendum to the already approved 2012 budget and answered the judges' threat to close the courts down when the original budget funds were used up.

More than \$200,000 has also been spent by the county to upgrade security at the judicial facilities following attacks in March against Judge Dave Edwards and a sheriff's deputy.

Special state Attorney General Scott Missall, representing the judges, filed a summary judgment motion on Tuesday asking a Thurston judge to require the county to provide the funding for the third courtroom and for the court to oversee "a reasonable but firm schedule and without further delay."

Special Deputy Prosecutor Phil Talmadge, representing the commissioners, said the county hasn't done anything wrong.

"The commissioners went out of their way to resolve the financial issues and this motion comes out of the blue," Talmadge said Tuesday afternoon. "We want to try and resolve the dispute, but despite whatever the commissioners give, the judges keep asking for more."

The summary judgment provides documents and letters dating back to 1991 when discussion of a third judge was first talked about in the state Legislature. The judge wasn't approved that year because of funding concerns, according to Grays Harbor Superior Court Judge Gordon Godfrey. But the issue re-emerged in 1992. And the next year, upon approval, Judge Mark McCauley became the county's third Superior Court judge.

"As a consequence of the county's failure to provide the third courtroom facilities, the Superior Court cannot conduct three jury trials simultaneously, affecting scheduling for all cases and causing delays in performing the business of the Superior Court," the motion reads.

In the past, the judges say they would use the county commission chambers, but those facilities are not adequate, they say, because of a lack of a jury box, no judicial chambers and other flaws, including lack of security "which create a substantial security risk to everyone in the meeting room."

On Feb. 6, 1992, then-Commission Chairman Bob Paylor wrote to legislators on behalf of the Board of County Commissioners expressing support for the creation of a third Superior Court position.

Paylor provided a fiscal statement, noting that the county would pay for half of a judge's salary, a new secretary position and the costs for remodeling the historic county courthouse to fit in another court room. Altogether, the county committed to spending \$676,916, according to Paylor's letter.

"The county understands that one-half of the judge's salary, any capital outlay and all other court operating costs are borne by the county, but requests exemption from the statute requiring the county to hire a stenographic court reporter for the third judge position," Paylor wrote. The plan would have spent \$300,000 to relocate the WSU Extension Office then located on the first floor of the courthouse and renovate their offices at a cost of \$200,000 to squeeze in the third courtroom. Fast forward to today and WSU Extension Office has left the building and is now located on the fairgrounds, but the space was never renovated. It's still used as office space.

"Since 1993, all of the Superior Court's requests for funding dedicated to construction and implementation of the Third Courtroom has been denied," the judges' motion states. "... The county never approved sufficient staff to support the third judicial position, but

left the Superior Court to operate with one court administrator and one staff assistant,” the lowest staff ratio in the state, the judges say.

In 1992, the state Legislature approved legislation increasing judicial positions all over the state. The judges also point out that Talmadge, who was a state senator on the Senate Judiciary Committee at the time, supported the legislation calling for the counties to make improvements before accepting the new judge positions.

“One of the county’s main defenses to this lawsuit is that the state, not the county, should pay for the third Superior Court courtroom, additional staff and other facilities,” the judges’ motion writes. “But that result is precluded by longstanding state law that was sponsored and passed by Mr. Talmadge.”

Talmadge said the state does hold the duty to fund a third courtroom if a judge deems it absolutely necessary and he says he was just one state senator who voted for legislation. But Talmadge said the courthouse provides plenty of room already for the judges, who are able to work in two courtrooms. Plus, there’s the courtroom for Juvenile Court at Junction City.

“If Grays Harbor County is going to be subject to these standards then it’s the state under Initiative 62 that is required to pay for it,” Talmadge said, citing the old initiative he says is still on the books requiring payment for unfunded mandates. “Nothing in state law says there needs to be a specific number of staff for judges or that each judge gets his own courtroom.”